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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

042390.P10140

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on January 9, 2006

Signature

Typed or printed name Tu Nguyen

Application Number

09/764,810

Filed

01/16/2001

First Named Inventor

Abraham Mendelson

Art Unit

2185

Examiner

Hong Chong Kim

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒

attorney or agent of record.

Registration number 42,034☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Thanh V. Nguyen

Typed or printed name

(714) 557-3800

Telephone number

January 9, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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*Total of _____ forms are submitted.

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Appl. No. 09/764,810
Pre-Appeal Brief Request for Review

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. No. : 09/764,810
Applicant : Abraham Mendelson
Filed : 01/16/2001
TC/A.U. : 2185
Examiner : Hong Chong Kim

Confirmation No. 7766

Docket No. : 042390.P10140
Customer No. : 8791

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office action dated October 17, 2005, Applicants would like to request a pre-appeal panel review of the application.

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

Claims 1-30 are pending in the present application.

This request is in response to the Final Office Action mailed October 17, 2005. In the Final Office Action, the Examiner rejected claims 1-6, 10, 11-16, 20, 21-26, and 30 under 35 U.S.C. §103(a). Pre-appeal panel review of the application in light of the remarks/arguments made herein is respectfully requested.

Rejection Under 35 U.S.C. § 103

In the Final Office Action, the Examiner rejected claims 1-6, 10, 11-16, 20, 21-26, and 30 under 35 U.S.C. §103(a) as being unpatentable over “The Cache Memory Book”, Jim Handy, Academic Press, 1993, pp 37-93 (“Handy”) in view of U.S. Patent No. 6,272,598 issued to Arlitt et al. (“Arlitt”). Applicants respectfully traverse the rejection and contend that the Examiner has not met the burden of establishing a prima facie case of obviousness.

There are several clear errors in the Examiner’s rejections and arguments.

1. Handy and Arlitt, individually or in combination, do not disclose, suggest, or render obvious a cache manager to manage a transfer of a trace.

Applicant would like to refer to the response filed on September 7, 2005, page 8. Among other things, Handy’s instruction cache and Arlitt’s Web objects are not traces.

2. Handy and Arlitt, individually or in combination, do not disclose, suggest, or render obvious a first cache to evict the trace based on a replacement mechanism.

Applicant would like to refer to the response filed on September 7, 2005, page 8. Among other things, Handy’s transfer is line transfer and Arlitt’s transfer is Internet transfer.

3. Handy and Arlitt, individually or in combination, do not disclose, suggest, or render obvious a second cache to receive the evicted trace based on a first number of accesses to the trace.

Applicant would like to refer to the response filed on September 7, 2005, page 8. Among other things, neither Handy nor Arlitt discloses a 2nd cache to receive the evicted trace.

4. Claims must be interpreted consistently with the specification:

Claims should be interpreted consistently with the specification, which provides content for the proper construction of the claims because it explains the nature of the patentee's invention. See Renishaw P.L.C. v. Marposs Societa Per Azioni, 158 F.3d 1243 (Fed. Cir. 1998).

Here, the trace, the trace cache manager, the first cache, the second cache and their relationships are fully described in the Specification. See, for example, page 4 (lines 4-11), page 5 (lines 11-16, lines 29-37), page 6 (lines 1-39), page 7 (lines 1-39), page 8 (lines 1-16), and Figure 3.

Accordingly, Applicants respectfully request the Review Panel render a decision allowing the application.

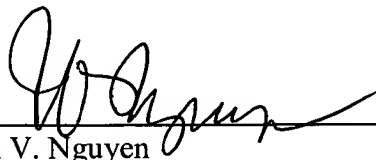
Conclusion

Applicants respectfully request the Review Panel render a decision allowing the application.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: January 9, 2006

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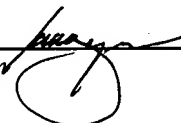
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Date: January 9, 2006


Tu Nguyen
January 9, 2006
Date